

112TH CONGRESS
1ST SESSION

S. 954

To promote the strengthening of the Haitian private sector.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2011

Mr. LUGAR introduced the following bill; which was read twice and referred
to the Committee on Foreign Relations

A BILL

To promote the strengthening of the Haitian private sector.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haitian-American En-
5 terprise Fund Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to promote the Haitian private sector, in-
9 cluding small businesses, the agricultural sector, and
10 joint ventures with United States and Haitian par-
11 ticipants; and

1 (2) to promote policies and practices conducive
2 to the private sector in Haiti through loans, grants,
3 equity investments, feasibility studies, technical as-
4 sistance, training, insurance, guarantees, and other
5 measures.

6 **SEC. 3. HAITIAN-AMERICAN ENTERPRISE FUND.**

7 (a) DESIGNATION.—After consultation with the lead-
8 ership of each House of Congress, the President may des-
9 ignate a private, nonprofit organization, which has been
10 established for the purposes specified in section 2 and
11 which shall be known as the “Haitian-American Enter-
12 prise Fund”, to receive financial assistance and support
13 made available under this Act.

14 (b) BOARD OF DIRECTORS.—

15 (1) APPOINTMENT.—The Haitian-American
16 Enterprise Fund shall be governed by a Board of
17 Directors, which shall be comprised of 6 private citi-
18 zens of the United States or Haiti, appointed by the
19 President, of which not more than 2 may be citizens
20 of Haiti.

21 (2) QUALIFICATIONS.—Member of the Board of
22 Directors shall be selected from among people who
23 have had successful business careers in private eq-
24 uity, banking, or finance that is similar to the expe-
25 rience of individuals who previously served on the

1 Board of Directors of a successful Enterprise Fund
2 established by the United States Government on or
3 after January 1, 1990.

4 (3) ADDITIONAL BOARD MEMBERS.—Upon the
5 recommendation of the Board of Directors, the
6 President may appoint up to 2 additional members
7 to the Board (in addition to the Directors appointed
8 pursuant to paragraph (1)), of which not more than
9 1 may be a citizen of Haiti.

10 (c) GRANTS.—

11 (1) IN GENERAL.—Amounts appropriated to
12 the President pursuant to section 7 shall be granted
13 to the Haitian-American Enterprise Fund by the
14 United States Agency for International Development
15 to enable the Fund to carry out the purposes speci-
16 fied in section 2 and for the administrative expenses
17 of the Fund.

18 (2) ELIGIBLE PROGRAMS AND PROJECTS.—
19 Grants awarded under this section may only be used
20 for programs and projects that support the purposes
21 set forth in section 2.

22 (3) COMPLIANCE REQUIREMENT.—

23 (A) IN GENERAL.—Grants may not be
24 awarded to the Haitian-American Enterprise
25 Fund under this section unless the Fund agrees

1 to comply with the requirements under this sec-
2 tion.

3 (B) GRANT AGREEMENT.—The grant
4 agreement between the United States Agency
5 for International Development (referred to in
6 this section as “USAID”) and the Haitian-
7 American Enterprise Fund shall state that the
8 Fund shall end its reinvestment cycle not later
9 than December 31, 2021, unless the USAID
10 Administrator determines, after consultation
11 with the appropriate congressional committees,
12 that the Fund should be extended.

13 (C) PREVENTION OF MONEY LAUNDERING
14 AND TERRORIST FINANCING.—The grant agree-
15 ment between USAID and the Haitian-Amer-
16 ican Enterprise Fund shall state that the Fund
17 shall comply with procedures specified by the
18 Secretary of State to ensure that grant funds
19 are not provided by the Fund to or through—

20 (i) any individual, private or govern-
21 ment entity, or educational institution that
22 advocates, plans, sponsors, engages in, or
23 has engaged in, money laundering or ter-
24 rorist activity; or

1 (ii) any private entity or educational
2 institution if a principal officer of its gov-
3 erning board is—

4 (I) involved in or advocating
5 money laundering or terrorist activity;
6 or

7 (II) a member of a designated
8 foreign terrorist organization.

9 (D) DISPOSITION OF ASSETS.—All assets
10 of the Haitian-American Enterprise Fund on
11 the date on which the Fund is dissolved shall
12 be returned to the Treasury of the United
13 States for the purpose of deficit reduction.

14 (d) NOTIFICATION.—

15 (1) IN GENERAL.—Not later than 15 days be-
16 fore designating an organization to operate as the
17 Haitian-American Enterprise Fund pursuant to sub-
18 section (a), the President shall provide the informa-
19 tion described in paragraph (2) to the Chairman and
20 Ranking Member of the appropriate congressional
21 committees.

22 (2) INFORMATION.—The information described
23 in this paragraph is—

1 (A) the identity of the organization to be
2 designated to operate as the Haitian-American
3 Enterprise Fund pursuant to subsection (a);

4 (B) the names and qualifications of the in-
5 dividuals who will comprise the Initial Board;

6 (C) the procedures referred to in sub-
7 section (c)(3)(C) that will apply to the Haitian-
8 American Enterprise Fund for purposes of cur-
9 tailing money laundering and terrorist financing
10 activities; and

11 (D) the size of the financial grant that
12 shall be made available to the Haitian-American
13 Enterprise Fund.

14 (e) REPORTS.—

15 (1) ADMINISTRATIVE EXPENSES.—Not later
16 than 1 year after the date of the enactment of this
17 Act, and annually thereafter until the Fund is dis-
18 solved, the Fund shall submit a report to the appro-
19 priate congressional committees that details the ad-
20 ministrative expenses of the Fund.

21 (2) GAO REPORT.—Not later than 3 years
22 after the date of the enactment of this Act, and
23 every 3 years thereafter until the Fund is dissolved,
24 the Comptroller General of the United States shall
25 submit a report to the appropriate congressional

1 committees that assesses the activities of the Fund
 2 in—

3 (A) achieving the stated goals of promoting
 4 private sector investment and employment in
 5 Haiti; and

6 (B) identifying those institutional or regu-
 7 latory constraints that inhibit a more effective
 8 application of Fund resources.

9 (f) DEFINED TERM.—In this section, the term “ap-
 10 propriate congressional committees” means—

11 (1) the Committee on Foreign Relations of the
 12 Senate;

13 (2) the Committee on Appropriations of the
 14 Senate;

15 (3) the Committee on Foreign Affairs of the
 16 House of Representatives; and

17 (4) the Committee on Appropriations of the
 18 House of Representatives.

19 **SEC. 4. OPERATION PROVISIONS.**

20 (a) APPLICABLE PROVISIONS.—Subsections (d)(5),
 21 (g), (h), (i), (k), (l), (m), (n), (o), and (p) of section 201
 22 of the Support for East European Democracy (SEED)
 23 Act of 1989 (Public Law 101–179; 22 U.S.C. 5421) shall
 24 apply with respect to the Haitian-American Enterprise
 25 Fund in the same manner as such provisions apply to En-

1 terprise Funds designated pursuant to subsection (d) of
2 such section.

3 (b) REINVESTMENT.—Returns on investments of the
4 Haitian-American Enterprise Fund and other payments to
5 the Fund may be reinvested in projects carried out by the
6 Fund without further appropriation by Congress.

7 **SEC. 5. BEST PRACTICES AND PROCEDURES.**

8 To the maximum extent practicable, the Board of Di-
9 rectors of the Haitian-American Enterprise Fund should
10 adopt the best practices and procedures used by Enter-
11 prise Funds, including those for which funding has been
12 made available pursuant to section 201 of the Support for
13 East European Democracy (SEED) Act of 1989 (Public
14 Law 101–179; 22 U.S.C. 5421).

15 **SEC. 6. EXPERIENCE OF OTHER ENTERPRISE FUNDS.**

16 In implementing this Act, the President shall ensure
17 that the Articles of Incorporation of the Haitian-American
18 Enterprise Fund (including provisions specifying the re-
19 sponsibilities of the Board of Directors of the Fund), the
20 terms of United States Government grant agreements
21 with the Fund, and United States Government oversight
22 of the Fund are, to the maximum extent practicable, con-
23 sistent with the Articles of Incorporation of, the terms of
24 grant agreements with, and the oversight of the Enter-
25 prise Funds established pursuant to section 201 of the

1 Support for East European Democracy (SEED) Act of
2 1989 (22 U.S.C. 5421) and comparable provisions of law.

3 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—There are authorized to be appro-
5 priated to the President such sums as may be necessary
6 to provide funding for grants to the Haitian-American En-
7 terprise Fund, which shall be used for the purposes speci-
8 fied in section 2.

9 (b) AVAILABILITY OF FUNDS.—Amounts appro-
10 priated pursuant to subsection (a) shall remain available
11 until expended.

12 (c) NONAPPLICABILITY OF OTHER LAWS.—Notwith-
13 standing any other provision of law, amounts appropriated
14 pursuant to subsection (a) may be used to carry out this
15 Act.

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